

## ORDINANCE NO. 2015-03

**AN ORDINANCE OF RADNOR TOWNSHIP, DELAWARE COUNTY, PENNSYLVANIA, AMENDING CHAPTER 170 OF THE RADNOR TOWNSHIP CODE, "FOOD REGULATIONS", BY REVISING THE PROVISIONS CONTAINED THEREIN TO REFLECT AMENDMENTS TO THE DEPARTMENT OF AGRICULTURE FOOD CODE (7 Pa. Code §§ 46.1 – 46.1201) AND THE ADOPTION OF THE RETAIL FOOD FACILITY SAFETY ACT OF 2010 (3 Pa.C.S. §§ 5701 – 5714).**

*The Radnor Township Board of Commissioners does hereby ENACT and ORDAIN, as follows:*

### **ARTICLE I.**

§ 170-1 of the Radnor Township Code, entitled "Adoption of code by reference", is hereby renamed "State act and regulations adopted by reference", and the contents of § 170-1 is hereby amended to read as follows:

#### **§ 170-1. State act and regulations adopted by reference**

Certain documents on file in the office of the Secretary of the Township of Radnor, being marked and designated as the "Department of Agriculture Food Code" (7 Pa. Code §§ 46.1 – 46.1201) ("PA Food Code") and the "Retail Food Facility Safety Act of 2010" (3 Pa.C.S. §§ 5701 – 5714) ("PA Food Safety Act") (under which statutory provisions the Code regulations were issued) are hereby adopted as the Food Code of Radnor Township, Delaware County, Pennsylvania, in the Commonwealth of Pennsylvania, for the control and regulation of food facilities as herein provided; and all the provisions, penalties, conditions and terms of the Department of Agriculture Food Code and the Retail Food Facility Safety Act of 2010, are hereby referred to, adopted and made a part hereof as if fully set forth in this chapter, with certain additions, deletions and amendments as set forth in this chapter.

### **ARTICLE II.**

The contents of § 170-2 of the Radnor Township Code, entitled "Modifications", are hereby deleted in its entirety and the following new language is substituted, so that § 170-2 reads:

#### **§ 170-2. Modifications**

A. The following sections and subsections of the PA Food Code are hereby added, deleted, or amended as set forth below:

1. 7 Pa. Code § 46.3. Definitions.

(a) Department - Delete the reference to "Department of Agriculture" and insert the "Department of Community Development of Radnor Township" in its place, so that the definition of "Department" reads as follows:

*Department* – The Department of Community Development of Radnor Township. The term is synonymous with the term "regulatory authority" in Subpart 1-201 of the Model Food Code, regarding applicability and terms defined.

(b) Insert the term, and definition, of "Director" to read as follows:

*Director* – The Director of Community Development charged with the administration and enforcement of this code, or his duly authorized representative.

(c) License - Delete the current definition and insert new language to read as follows:

*License* – An annual license issued by the Department of Community Development to operate a public eating and drinking place, a food establishment, a retail food establishment, food facility or a mobile food facility. License fees shall be charged in accordance with Chapter **162** (Fees) of the Township Code.

(d) Licensor - Delete the current definition and insert new language to read as follows:

*Licensor* – The "Department of Community Development of Radnor Township".

(e) Delete the term, and definition, of "Secretary."

(f) Retail food facility – Revise the definition to read as follows:

*Retail food facility* – A public eating or drinking place or a retail food establishment located within the Township of Radnor. The term is synonymous with the term "food establishment" in Subpart 1-201 of the Model Food Code.

(g) Insert the term, and definition of, "Township" to read as follows:

*Township* – The Township of Radnor, Delaware County, in the Commonwealth of Pennsylvania.

## 2. Subchapter H of the PA Food Code, ADMINISTRATIVE

PROCEDURES (7 Pa. Code § 46.1101 – 46.1144)

(a) Delete the reference to, and address of, the “Department of Agriculture” in § 46.1102(b) and insert the term, and address, of the “Department of Community Development of Radnor Township” in its place, so that § 46.1102(b) reads as follows:

(b) *Written request.* A person seeking an approval from the Department or a licensor under this chapter shall submit a written request for approval to the entity from which approval is sought. If approval is sought from the Department, the written request shall be mailed or delivered to the following address:

Department of Community Development of Radnor Township  
301 Iven Avenue  
Wayne, PA 19087

(b) Add the following sentence to § 46.1141(a): “Such license shall be conspicuously displayed on the premises as specified in § 46.1144(1).” § 46.1141(a) should read as follows:

(a) *General requirement.* A person may not operate a retail food facility without a valid license issued by the Department or licensor, unless otherwise provided in subsection (b). Such license shall be conspicuously displayed on the premises as specified in § 46.1144(1).

(c) Revise, delete, and renumber the current contents of § 46.1141(c), “License interval”, so that § 46.1141(c) reads as follows:

(c) *License interval.*

(1) Except as set forth in Paragraph (c)(2), a license certificate issued by the Department shall be granted for a period of one year, on a calendar-year basis. Licenses issued during the year will expire at the end of the calendar year, at which time a new license fee shall be paid. Fees charged shall be in accordance with Chapter **162** (Fees) of the Code of the Township of Radnor.

(2) *6 month license interval*

(i) The license interval is 6 months with respect to a retail food facility that serves a highly susceptible population or that conducts specialized processes such as smoking, curing or reduced oxygen packaging to extend shelf life.

(ii) Examples of the type of retail food facility that would typically be subject to the 6-month license interval in subparagraph (i) are preschools, hospitals, nursing homes and establishments conducting processing at retail.

(iii) The license interval for a retail food facility is 6 months if the retail food facility...is newly-licensed or has not yet demonstrated to the Department, through historical documentation, that it has achieved and documented active managerial control of the foodborne illness risk factors in paragraph (1). Active managerial control is achieved and documented when the conditions in subsection (d) are achieved by the licensee.

(d) The following language should be added to both §§ 46.1143(a)(4) and 46.1143(b): “Fees charged shall be in accordance with Chapter 162 (Fees) of the Code of the Township of Radnor.”

§ 46.1143(a)(4) should read as follows:

(4) The required fee is submitted. Fees charged shall be in accordance with Chapter 162 (Fees) of the Code of Radnor Township.

§ 46.1143(b) should read as follows:

(b) *License renewal.* The retail food facility operator of an existing retail food facility shall submit an application, the required fee and be in compliance with this chapter prior to issuance of a renewed license by the Department or a licensor. Fees charged shall be in accordance with Chapter 162 (Fees) of the Code of Radnor Township.

(e) Insert a new § 46.1145, entitled “Violations and Penalties”, to the Food Code to read as follows:

§ 46.1145. Violations and penalties. Any person, firm, or corporation who shall violate any provision of this code shall, upon conviction thereof, be subject to a fine of not more than \$1,000. Each day that a violation continues shall constitute a separate offense.

B. The following sections and subsections of the PA Food Safety Act (3 Pa.C.S. §§ 5701 – 5714) are hereby added, deleted, or amended as set forth below:

1. § 5702. Definitions.

- (a) Department - Insert the term, and definition of, “Department” to read as follows:

*Department* – The Department of Community Development of Radnor Township. The term is synonymous with the term “regulatory authority” in Subpart 1-201 of the Model Food Code, regarding applicability and terms defined.

- (b) Licensor - Delete the current definition and insert new language to read as follows:

*Licensor* – The “Department of Community Development of Radnor Township.

- (c) Retail food facility – Revise the definition to read as follows:

*Retail food facility* – A public eating or drinking place or a retail food establishment located within the Township of Radnor. The term is synonymous with the term “food establishment” in Subpart 1-201 of the Model Food Code

2. § 5703. License required.

- (a) § 5703(b). Exempt retail food facilities – The provision contained therein which reads: “If the licensor is the department, the exemption shall be accomplished by order of the secretary and published in the Pennsylvania Bulletin. If the licensor is an entity other than the department, the exemption shall be accomplished by order of the local government unit or units having jurisdiction over the licensor. A retail food facility that is exempted from the license requirements under this section shall remain subject to inspection and all other provisions of this subchapter.”

Shall be revised to read as follows:

If the licensor is the department, the exemption shall be accomplished by order of the local government unit or units having jurisdiction over the licensor. A retail food facility that is exempted from the license requirements under this section shall remain subject to inspection and all other provisions of this subchapter.

- (b) § 5703(d) – Revise to read as follows:

*Application requirement.* Any person owning or operating or desiring to operate a retail food facility within this Township shall make

licensor

application for a license to the department on forms furnished by the Department. The forms shall, at a minimum, set forth such information as the department may require. Application forms shall include the name and address of the applicant, together with all the other information deemed necessary to identify the applicant, provide contact information for the applicant, identify the location of the retail food facility that is the subject to the application and facilitate the department's processing of the application.

(c) § 5703(e)(2) – Delete in its entirety.

(d) § 5703(f) – Delete in its entirety.

(e) § 5703(i)(2)(i) – Revise to read as follows:

If a retail food facility licensed by the department is in violation of a provision of this subchapter, or of a regulation promulgated under authority of this subchapter, or of any other act related to public health and being applicable to retail food facilities, the department may suspend or revoke the license. The suspension of a license shall be terminated when the violation for which it was imposed has been found, upon inspection by the licensor, to have been corrected. Whenever a license is suspended or revoked, no part of the fee paid therefore shall be returned to the proprietor.

(e) § 5703(j) – Delete the current contents and insert new language to read as follows:

(j) *Fees*. “Fees charged shall be in accordance with Chapter 162 (Fees) of the Code of the Township of Radnor.”

3. § 5707. Powers of department.

Revise §§ 5707(b) and 5707 (c) to read as follows:

**(b) Food service at schools and organized camps.—**

(1) The Department shall provide for the inspection of a food service at a school and shall require that school food service personnel receive the necessary training in accordance with the standards applied to retail food facilities for schools located in areas in which the Department itself is the licensor.

(2) The Department shall provide for the inspection of a food service at organized camps and shall require that food service personnel at organized camps receive the necessary training in

accordance with the standards applied to retail food facilities for organized camps located in areas in which the Township department is itself the licensor.

**(c) Inspection.**--If a licensor fails to inspect a retail food facility as required under section 5703(e)(relating to license required), the Department of Agriculture of the Commonwealth shall have the authority to license and inspect all retail food facilities under that licensor's jurisdiction, and the licensor that failed to comply with the inspection requirement shall not charge or collect any fee for licensing subject retail food facilities. If the Department of Agriculture of the Commonwealth conducts an inspection, it shall, within 30 days, provide the licensor a copy of the inspection report.

4. § 5711. Toilets, sinks and drains

The following language should be added to § 5711: “A plumbing system shall be designed, constructed and installed in accordance with Chapter **218** (Plumbing Standards) of the Code of the Township of Radnor. All plumbing systems and hoses conveying water shall be constructed and repaired with approved materials in accordance with Chapter **218** (Plumbing Standards) of the Code of the Township of Radnor. At least one toilet and not fewer than the toilets (and urinals, if used), shall be provided in accordance with Chapter 218 (Plumbing Standards) of the Code of the Township of Radnor.”

§ 5711 should read as follows:

All toilets, hand-wash sinks, tubs, sinks and drains used in or in connection with any retail food facility shall at all times be kept in a clean and sanitary condition. A plumbing system shall be designed, constructed and installed in accordance with Chapter **218** (Plumbing Standards) of the Code of the Township of Radnor. All plumbing systems and hoses conveying water shall be constructed and repaired with approved materials in accordance with Chapter **218** (Plumbing Standards) of the Code of the Township of Radnor. At least one toilet and not fewer than the toilets (and urinals, if used), shall be provided in accordance with Chapter 218 (Plumbing Standards) of the Code of the Township of Radnor.

5. 3 Pa.C.S. § 5714. Penalties

Delete the current contents and insert new language to read as follows:

Any person, firm, or corporation who shall violate any provision of this act shall, upon conviction thereof, be subject to a fine of not more than \$1,000. Each day that a violation continues shall constitute a separate offense.

**ARTICLE III.** Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

**ARTICLE IV.** Severability. If any clause, sentence, paragraph, section, subsection, part, or provision of this Ordinance is, for any reason, found to be unconstitutional, illegal, or invalid by a court of competent jurisdiction, such unconstitutionality, illegality, or invalidity shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid. It is hereby declared as the intent of the Board of Commissioners of Radnor Township, that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid clause, sentence, paragraph, section, subsection, part, provision, or part thereof not been included therein.

**ARTICLE V.** Effective Date. This Ordinance shall become effective in accordance with the Radnor Township Home Rule Charter.

**ENACTED** and **ORDAINED** by the Board of Commissioners this 15th day of June, 2015.

**RADNOR TOWNSHIP  
BOARD OF COMMISSIONERS**

By: William A. Spingler  
Name: William Spingler  
Title: President

  
ATTEST: \_\_\_\_\_  
Robert Zienkowski, Secretary